



August 4, 2020

FIRST CLASS and
CERTIFIED MAIL – 9214 8969 0099 9790 1417 9152 98

Mr. Adam Delk, VP of SC Operations
Palmetto Wastewater Reclamation, LLC
1710 Woodcreek Farms Road
Elgin, SC 29045

Re: **Consent Order 20-023-W**
Alpine Utilities/Stoop Creek WWTF
NPDES Permit SC0029483
Lexington County

Dear Mr. Delk:

Enclosed, please find fully executed Consent Order 20-023-W for the above referenced facility. The Order is considered executed on July 31, 2020.

If you have any questions, please contact me at (803) 898-1768 or by e-mail at shawah@dhec.sc.gov.

Sincerely,

Anastasia Shaw, Enforcement Project Manager
Bureau of Water - WP Compliance and Enforcement Division
WP Compliance and Enforcement Section

cc: Melanie Hindman, SCDHEC, WP Compliance and Enforcement Section
Veronica Barringer, SCDHEC, Midlands EA Region, Columbia Office
Brenda Green, SCDHEC, Water Facilities Permitting
Sonya Johnson, SCDHEC, Midlands EA Region, Columbia Office
John Hoefer, Esq., Willoughby & Hoefer, PA

Attachment as stated

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PALMETTO WASTEWATER RECLAMATION, LLC
ALPINE UTILITIES/STOOP CREEK WWTF
LEXINGTON COUNTY**

CONSENT ORDER

20 - 023 - W

Palmetto Wastewater Reclamation, LLC (PWR) owns and is responsible for the proper operation and maintenance of the Alpine Utilities Stoop Creek wastewater treatment facility (WWTF) located on the south side of Old Bush River Road, one thousand (1,000) feet east of Interstate 20, in Lexington County, South Carolina. The WWTF serves the residents and businesses of its designated service area.

PWR failed to comply with the effluent discharge limitations for *Escherichia coli* (*E. coli*) contained in National Pollutant Discharge Elimination System (NPDES) Permit SC0029483.

In accordance with approved procedures and based upon discussions with agents for PWR on April 27, 2020, the parties have agreed to the issuance of this Consent Order to include the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. PWR owns and is responsible for the proper operation and maintenance of the Alpine Utilities Stoop Creek WWTF, located on the south side of Bush River Road, one thousand (1,000) feet east of Interstate 20 in Lexington County, South Carolina.

2. The South Carolina Department of Health and Environmental Control (Department) issued NPDES Permit SC0029483, effective July 1, 2018, authorizing PWR to discharge treated wastewater from the WWTF into Stoop Creek to the Saluda River, in accordance with effluent limitations, monitoring requirements, and other permit conditions contained therein. The permit has an expiration date of June 30, 2023.
3. PWR reported violations of the effluent discharge limit for E. coli on discharge monitoring reports (DMRs) submitted to the Department for the October 2019 and January 2020 monthly monitoring periods.
4. In a letter to the Department dated November 25, 2019, received on December 2, 2019, PWR attributed an E. coli violation during the October 2019 monthly monitoring period to the presence of small particles in the sample as a result of sample collection during a rain event.
5. In a letter to the Department dated February 10, 2020, received on February 28, 2020, PWR attributed an E. coli violation during the January 2020 monthly monitoring period to unusually high flows resulting from a storm.
6. On January 31, 2020, the Department issued a Notice of Violation (NOV) to PWR as result of violations of the effluent discharge limits for E. coli reported on DMRs submitted to the Department for the October 2019 and January 2020 monthly monitoring periods. As PWR previously submitted explanations for the violations, no response was required. The NOV was delivered on February 5, 2020.
7. On April 16, 2020, Department staff issued a Notice of Alleged Violation/Notice of Enforcement Conference to PWR.

8. On April 27, 2020, Department staff held an enforcement conference via telephone with agents for PWR. Agents for PWR attributed the October 2019 E. coli violation to waste material clogging the weir and baffle plate upstream of the clarifier following the installation of a new splitter box. Agents for PWR attributed the January 2020 E. coli violation to stormwater entering the chlorine contact chamber; heavy rains which caused Stoop Creek to rise resulted in the closing of a flapper valve that is usually open, allowing stormwater that would typically enter Stoop Creek to enter the WWTF instead. In order to prevent future occurrences, Agents for PWR stated PWR will submit to the Department an application for a permit to construct a stormwater pump station. The parties discussed the possibility of a Consent Order containing a civil penalty.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. PWR violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (2008 & Supp. 2019) and Water Pollution Control Permits, Regulations, S. C. Code Ann Regs 61-9.122.41(a) (2011), in that it failed to comply with the effluent discharge limits of NPDES Permit SC0029483 for E. coli.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED, pursuant to the Pollution Control Act, S.C. Code Ann. §§ 48-1-50 and 48-1-100 (2008 & Supp. 2019), that

PWR shall:

1. Within thirty (30) days of the execution date of this Order, submit to the Department an application package for a Permit to Construct for a storm water pump station.
2. Within thirty (30) days of the execution date of this Order, submit to the Department written notification of the completion date for all corrective actions necessary to resolve the exceedance violations subject of this Order. Beginning the first full monthly monitoring period following completion of all corrective actions, PWR shall initiate a six (6) month compliance confirmation monitoring period (Compliance Confirmation) associated with the effluent limitations referenced herein. The Compliance Confirmation shall consist of PWR monitoring its WWTF effluent, per the requirements of NPDES Permit SC0029483 for a period of no less than six (6) consecutive monthly monitoring periods. In the event that an exceedance of an effluent limitation is observed during the Compliance Confirmation period, PWR shall:
 - a. Within ninety (90) days of observing an exceedance, submit to the Department three (3) copies of a preliminary engineering report (PER) detailing upgrades necessary to comply with the effluent violations contained in NPDES Permit SC0029483. The PER shall be administratively and technically complete and prepared in accordance with Standards for Wastewater Facility Construction, S.C. Code Regs. 61-67 (2015).
 - b. Within ninety (90) days from the Department's approval of the PER, required by item 2.a. above, submit to the Department three (3) copies of plans, specifications, an application, and any other necessary documents for a Permit to Construct upgrades to the WWTF necessary to comply with the limits contained in NPDES Permit SC0029483. The wastewater construction application package must be

administratively and technically complete and prepared in accordance with Standards for Wastewater Facility Construction, S.C. Code Regs. 61-67 (2015).

- c. Within sixty (60) days from the date of issuance of a Construction Permit issued subsequent to the application package required by item 2.b. above, begin construction of all upgrades detailed within such Construction Permit.
 - d. Within one hundred eighty (180) days from issuance of the Construction Permit subject of item 2.c above, complete all construction activities and request an Approval to Place into Operation the required upgrades from the Department's Midlands Environmental Affairs Columbia Office.
3. This Consent Order shall terminate upon PWR: obtaining approval to operate all upgrades subject in item 2 above, or upon completion of the Compliance Confirmation wherein no exceedances are observed; and, fulfilling all other requirements detailed within this Consent Order (e.g., payment of assessed penalties, etc.).
 4. Within thirty (30) days of the execution date of this Order, pay to the Department a civil penalty in the amount of two thousand eight hundred dollars (\$2,800.00

PURSUANT TO THIS ORDER, all communication regarding this Order and its requirements shall be addressed as follows:

Anastasia Shaw, Enforcement Project Manager
 SCDHEC, Bureau of Water - WP Enforcement Section
 2600 Bull Street
 Columbia, S.C. 29201

Please include the Order number listed above on all submittals required under this Order, including all checks remitted as payment of the civil penalty.

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this

Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), including the assessment of additional civil penalties.

IT IS FURTHER ORDERED AND AGREED that this Order governs only PWR's civil liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire agreement between the Department and PWR with respect to the resolution and settlement of these civil matters. The parties are not relying upon any representations, promises, understandings or agreements except as expressly set forth within this Order.

THE PARTIES understand that the "execution date" of this Order is the date the Order is signed by the Director of Environmental Affairs.

[Signature page follows]

**FOR THE SOUTH CAROLINA DEPARTMENT
OF HEALTH AND ENVIRONMENTAL CONTROL**

Myra C. Reece
Myra Reece
Director of Environmental Affairs

Date: 7/31/2020

James M. Marcus
James M. Marcus, PhD, Chief
Bureau of Water

Date: 7/30/2020

Randy Stewart
Randy Stewart, Director
Water Pollution Compliance & Enforcement Division
Bureau of Water

Date: 7/30/2020

Reviewed By:

Ceri M. Miller
DHEC Legal Counsel

Date: 7/30/2020

WE CONSENT:

PALMETTO WASTEWATER RECLAMATION, LLC

Adam Delk
Adam Delk, Vice President of SC Operations

Date: 7-28-20